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SUBJECT: UN: CONDITIONS OF SERVICE AND COMPENSATION FOR
NON-SECRETARIAT OFFICIALS

¶1. ACTION REQUEST: See paragraph 16. This is an action request. USUN requests instructions for upcoming negotiations in the Fifth Committee.

¶2. SUMMARY: As requested by General Assembly resolution A/59/282, the Secretary-General (SG), in his report A/61/554: Conditions of service and compensation for officials other than Secretariat officials, presents proposals for remuneration and other conditions of service for members of the International Court of Justice (ICJ), and judges and ad litem judges of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). The proposals include: a mechanism of remuneration based on market exchange rates and local retail price fluctuations, protection of pensions in payment to former judges and their survivors and increases to other conditions of service, i.e., education costs, special allowance, travel and subsistence. The follow-up Administrative Committee on Administrative and Budgetary Questions (ACABQ) report (reference A) provides a detailed analysis of the SG's proposals, revealing the SG's flawed assumptions and recommending elaboration of alternative methods for adjusting remuneration and addressing other matters. Regarding the longstanding question of the disparity between retirement benefits of the members of the International Court of Justice and the judges of the ICTY and ICTR, the ACABQ offers background but no opinion and states this matter should be decided by the General Assembly.

¶3. Financial implications of the SG's proposals requesting approval of increases in the annual salary, an increase in the president's allowance, increases in the costs of educating children and additional pension payments for former judges and the widows of the judges of ICJ and the judges of the ICTY and ICTR are estimated at \$2,186,500 for the biennium 2006-2007. END SUMMARY.

¶4. REMUNERATION: Article 32 of the International Court of Justice provides that the General Assembly shall fix the salaries and allowances of the members of the Court and that they may not be decreased during the term of office. Per Security Council adoption of relevant ICTY and ICTR statutes, the terms and conditions of service for ICTY judges are the same as those of judges in the ICJ, and the terms and conditions for judges in the ICTR are the same as those of the ICTY. Currently, a floor/ceiling mechanism, with rates set at 4 per cent below and 4 per cent above the average exchange rate of the previous year, is applied to the salaries of the Members of the ICJ and the Judges.

¶5. During the 59th GA, the SG proposed to increase the judges' annual salaries to \$177,000. At that time, ACABQ supported the increase, but expressed a number of concerns regarding the current system, which is based on the floor/ceiling mechanism put in place during the 48th GA. ACABQ recommended during the last review that the SG be requested to submit proposals for an alternate system to be considered during the 61st GA. The GA made such a request in

resolution 59/282, and decided, as an interim measure, to increase the annual salary of the members of the Court and the judges of the Tribunals to \$170,080, pending its decision on the report requested.

¶16. In the report under consideration, the SG recommended replacing the floor/ceiling mechanism with a new mechanism based on a net base salary with a corresponding post adjustment amount per index point equal to 1 per cent of net base salary at each level and step of the salary scale (similar to the one that pertains to salaries of UN staff in the Professional and higher categories). Based on current post adjustment multipliers for the Netherlands and the United Republic of Tanzania and the current salary of judges, this mechanism would yield an annual remuneration (base salary plus post adjustment) of \$255,460 for judges serving in The Hague (14% increase) and \$235,731 for judges serving in Arusha (38.6% increase). The SG highlights that this approach would be administratively simple and respond to the GA's request in its resolution A/RES/59/282 for the establishment of a mechanism of remuneration based on market exchange rates and local retail price fluctuation that would limit the divergence of such remuneration from that of comparable positions of seniority with the UN.

¶17. The ACABQ report noted that this proposal, which uses the current net remuneration as the base salary, unduly inflates the remuneration calculated under a post adjustment system, since the current net remuneration already includes a cost-of-living component. ACABQ recommended elaboration of alternative methods for adjusting remuneration according to market exchange rates and movement of the local cost-of-living index with a view towards protecting the level of the remuneration to be presented to the GA at its 62nd session.

OTHER CONDITIONS OF SERVICE

¶18. EDUCATION GRANT: The SG recommended that any decision taken by the GA at its 61st session to update the levels of the education grant or changes in the provisions regarding disabled children be extended to the members of the Court and the judges of the Tribunals. Although ACABQ supports in principle an increase in the education grant, ACABQ believes that all conditions of service should be considered together as part of the periodic review carried out by the GA and not linked to any developments with regard to staff.

¶19. SPECIAL ALLOWANCES: The SG proposed that the special allowances for the Presidents of the ICJ and the two tribunals be increased from \$15,000 to \$20,000 and the Vice-Presidents' allowances from \$94 a day to \$125 a day. ACABQ recommended against the proposal, which it believed was not justified based on real needs and expenditure patterns.

¶10. TRAVEL AND SUBSISTENCE REGULATIONS: The Registrar of the ICJ has proposed, and the SG and ACABQ agreed, that the Travel and Subsistence Regulations for assignment grants should be reviewed and updated to conform to current standards of the Organization.

¶11. RETIREMENT BENEFITS: The SG recommended that the pension benefits of the judges of the Tribunals and of the judges of the Court be brought once again to the attention of the GA for its consideration since the GA is the sole authority to determine the conditions of service of the judges.

¶12. PENSIONS IN PAYMENT: In April 2004, the Registrar of the Court transmitted a letter to the Secretariat expressing concern that the level of pensions for judges and surviving spouses are not protected in value since they are set in U.S. dollars and then converted into a foreign currency. After reviewing the mechanisms used by the ICSC (floor/ceiling) and the UNFSPF (two-track system) as suggested by ACABQ, the SG decided these mechanisms were too complex for the administration of the 50 pensions currently being administered. Instead, he proposed a 36-month average

exchange rate. Under this system, members of ICJ and the judges of the Tribunals would be given the option of having their pension benefit converted from U.S. dollars to a local currency using the 36-month average exchange rate established by UNJSPF applicable to the country or zone considered. A judge in receipt of a pension or a survivor in receipt of a pension benefit would be given the opportunity to request, on an annual basis, at six-month intervals, that the monthly pension benefit in U.S. dollars be converted. ACABQ recommended that this proposal be adopted, on the understanding that retirees and their survivors would be given a one-time option to request conversion of their pension into another currency, rather than on an annual basis.

¶13. FINANCIAL IMPLICATIONS: The total cost of the proposals contained in the SG's report, not including the revisions suggested by ACABQ, are estimated at 2,186,500 dollars for the biennium 2006-2007.

¶14. NEXT COMPREHENSIVE REVIEW: Should the GA decide to revert the three-year review cycle, the next comprehensive review by the Assembly would be undertaken at its sixty-fourth session, in 2009.

¶15. ACTION REQUEST: The Fifth Committee has completed its formal and begun its informal consultations on Conditions of Service. Preliminary negotiations on a draft resolution began March 7. USUN requests instructions prior to the start of these negotiations.

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